

**MARSHALL, DENNEHEY, WARNER
COLEMAN & GOGGIN**

By: Daniel D. Krebs, Esquire
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*Attorney for Defendant
Railroad Construction Company*

WILLIAM A. PHILLIPS, JR.	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
	:	
v.	:	MAY TERM, 2003
	:	NO. 002597
RAILROAD CONSTRUCTION	:	
COMPANY, OF SOUTH JERSEY, INC.	:	

**DEFENDANT, RAILROAD CONSTRUCTION COMPANY OF SOUTH JERSEY, INC.'S
PETITION FOR REMOVAL**

The defendant, Railroad Construction Company of South Jersey, Inc., by and through its counsel, Marshall, Dennehey, Warner, Coleman & Goggin, brings this Petition for Removal of the above matter from the Court of Common Pleas of Philadelphia County to the United States District Court for the Eastern District of Pennsylvania and in support thereof, states the following:

1. On or about May 21, 2003, the plaintiff commenced the instant action by filing a Complaint in the Court of Common Pleas of Philadelphia County, May Term 2003, No. 02597 (A true and correct copy of plaintiff's Complaint is attached hereto as Exhibit "A").

2. In his Complaint, plaintiff sets forth claims for negligence following a slip and/or trip and fall accident which occurred on July 23, 2001 on a property where the plaintiff alleges the defendant was working. (See Exhibit "A", ¶¶ 4 and 5).

3. In the Complaint, plaintiff avers that he is a resident of Pennsylvania. (Exhibit "A", ¶ 1).

4. Further in the Complaint, plaintiff alleges that defendant is a business entity located in Moorestown, New Jersey. (Exhibit "A", ¶ 2").

5. Although plaintiff filed the instant Complaint in the Court of Common Pleas of Philadelphia County, on or about May 21, 2003, the Complaint was not served on the defendant until June 16, 2003. (A true and correct copy of plaintiff's correspondence of June 12, 2003, serving the Complaint via certified mail is attached hereto as Exhibit "B").

6. Pursuant to 28 U.S.C. §1332 (a), the District Courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$100,000.00, exclusive of interest and costs, and is between (1) citizens of different states; (2) citizens of a state and citizens or subjects of a foreign state; and (3) citizens of different states and in which citizens or subjects of a foreign state are additional parties.

7. In this case, jurisdiction is proper with the United States District Court for the Eastern District of Pennsylvania as there is diversity of citizenship between the parties and as the matter in controversy exceeds the sum of \$75,000.00. See, 28 U.S.C. §1332 (a), 1441 (a).

8. Pursuant to 28 U.S.C. §1446 (a), the defendant designed to removed any civil action from a state court shall file, in the District Court of the United States for the District and Division within which such action is pending, a Notice of Removal signed pursuant to Rule 11 and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings and orders served upon such defendant in such action. (See Exhibit "A").

9. Pursuant to 28 U.S.C. §1446 (b), this Petition for Removal has been filed timely, that is, within thirty (30) days of receipt of the Complaint by the moving defendant.

WHEREFORE, defendant, Railroad Construction Company of South Jersey, Inc., respectfully request that this Honorable Court to grant its Petition for Removal.

Respectfully submitted,

DANIEL D. KREBBS, ESQUIRE
Attorney for Defendant
Railroad Construction Company of South Jersey,
Inc.

Date: _____
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